

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

RALPH COUNTRYMAN,  
Plaintiff,  
vs.  
RICHARD GARCIA, et al.,  
Defendants.

3:10-cv-00085- ECR-WGC

**ORDER**

Plaintiff has filed a Motion to Compel defendants to respond to discovery (Doc. #38) and a Motion for Hearing (Doc. #39) to which defendants objected. Defendant's Opposition (Doc. #41) is predicated on the proposition plaintiff's discovery should have been served more than 33 days prior to the discovery deadline to satisfy the deadline for completion of discovery. Generally speaking, defendants are correct. See, *Bishop v. Potter*, 2010 WL 2775332 (D. Nev. 2010).

However, as Judge Foley noted in the *Bishop* decision, "this requirement is not absolute." The Court further noted that because plaintiff therein served his interrogatories 31 and 32 days prior to the discovery deadline, "the Court can excuse the failure to comply with the deadline if it is not excessive." *Id.*

Herein, the deadline to complete discovery was August 22, 2011. Plaintiff's interrogatories and request for production were dated and served July 21, 2011. Although technically not within the discovery timetable, plaintiff's failure to comply with the deadline of one or two days "was not excessive." *Id.*

1 Therefore, plaintiff's "Motion to Compel Defendants to Answer Discovery" (Doc. #38)  
2 is **GRANTED** and his Motion for Hearing (Doc. #39) is **DENIED** as moot. Defendants shall  
3 have 30 days from the date of this Order to respond to plaintiff's discovery.<sup>1</sup>

4 DATED: October 20, 2011

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7 WILLIAM G. COBB  
UNITED STATES MAGISTRATE JUDGE

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<sup>1</sup> Plaintiff's letter to the Court is not to be filed and is returned to plaintiff with this order. A  
28 copy is to be provided defendants' counsel.

To: Judge magistrate Cobb

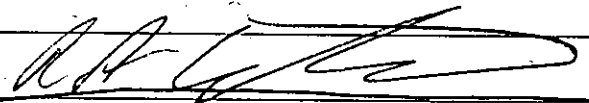
This letter is a request that you make a ruling on a; Motion to Compel defendants to answer discovery pur. FRCP 37, AND motion for hearing (first request)

this motion was filed September 2, 2011 and needs to be ruled on before I can file summary judgement.

Please look into this matter.

Case # 3:10-CV-85-ECR-WGC

Thank you



Ralph Countryman 44564

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